

Panaji, 26th August, 1976 (Bhadra 4, 1898)

SERIES I No. 22

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Special Department

Notification

1-41(1)/76-SPL

In exercise of the powers conferred by the proviso to article 309 of the Constitution, read with the Government of India, Ministry of External Affairs letter No. F.7(11)/62-Goa dated the 25th July, 1963, the Administrator of Goa, Daman and Diu, is pleased to make the following rules relating to recruitment to Group 'C' post of Film Librarian in the Directorate of Education, under the Government of Goa, Daman and Diu.

1. **Short title.** — These rules may be called Goa Government, Directorate of Education Group 'C' (Non-Ministerial, Non-Gazetted) Post Recruitment Rules, 1976.

2. **Application.** — These rules shall apply to the posts specified in column 1 of the Schedule to these rules.

3. **Number, classification and scale of pay.** — The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule.

4. **Method of recruitment, age limit and other qualifications.** — The method of recruitment of the said posts, age limit, qualifications and other matters connected therewith shall be as specified in columns 5 to 13 of the aforesaid Schedule.

Provided that,

- (a) the maximum age limit specified in the Schedule in respect of direct recruitment may be relaxed in the case of candidates belonging to the Scheduled Tribes and other special categories in accordance with the orders issued by the Government from time to time; and
- (b) no male candidate, who has more than one wife living and no female candidate, who has married a person having already a wife living, shall be eligible for appointment, unless the Government, after having been satisfied that there are special grounds for doing so, exempts any such candidate from the operation of this rule.

5. These rules will come into effect from the date of the Notification and will relate to appointments to the various posts made on or after this date.

T. Kipgen
Chief Secretary

Panaji, 3rd August, 1976.

SCHEDULE

1	2	3	4	5	6	7	8	9	10	11	12	13
Name of the post	No. of posts	Classification	Scale of Pay	Whether Selection Post or non-Selection Post	Age limit for direct recruits	Educational and other qualifications required for direct recruits	Whether age and educational qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation, if any	Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer, and percentage of the vacancies to be filled by various methods	In case of recruitment, by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made	If a DPC exists, what is to be consulted in its composition making recruitment	Circumstances in which U.P.S.C. is to be consulted in making recruitment
1. Film Librarian	One	Group 'C' (Non-Ministerial, Non-Gazetted)	Rs. 330-10-380-EB-12-500-EB-15-560	Selection	30 years (Relaxable for Govt. Servants)	1) S. S. C. E. or equivalent qualification. 2) Certificate course in film library, from a recognised institution.	Age: No Edu. Quafs and Exp. Yes	2 years	Promotion falling which by direct recruitment.	Film Operator with 5 years of service in the grade.	Group As required 'C' under the D.P.C. rules.	
<p><i>Desirable:</i></p> <p>1) Two years experience in handling of films with knowledge of cutting, splicing, indexing, shelving, classification and cataloguing, etc.</p> <p>2) Knowledge of typing.</p>												

Rural Development Department

ORDER

2-29/68-69/FCS-CS

In exercise of powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with Order No. S.O. 681(E) dated the 30th November, 1974 of the Government of India in the Ministry of Industries and Civil Supplies (Department of Civil Supplies and Co-operation), the Administrator of Goa, Daman and Diu hereby makes the following Order so as to amend further the Goa, Daman and Diu Tyres and Tubes of cars, buses, jeeps, vans, trucks, tractors etc. (Supply and Distribution) Order, 1969, namely:—

(1) This Order may be called the Goa, Daman and Diu Tyres and Tubes of cars, buses, jeeps, vans, trucks, tractors etc. (Supply and Distribution) (Amendment) Order, 1976.

(2) It shall come into force at once.

(3) Amendment of Clauses 4 and 4A.—The clause 4 of the Goa, Daman and Diu Tyres and Tubes of cars, buses, jeeps, vans, trucks, tractors etc. (Supply and Distribution) Order, 1969 shall be deleted and the existing clause 4-A shall be re-numbered as Clause 4.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

S. S. Sukhatankar, Under Secretary (Revenue).
Panaji, 17th August, 1976.

Law and Judiciary Department

Notification

LD/Bill/8/76

The following Bill passed by the Legislative Assembly of Goa, Daman and Diu which received the assent of the President of India on 5th August, 1976 is hereby published for general information.

B. S. Subbanna, Draftsman.

Panaji, 17th August, 1976.

The Goa, Daman and Diu Village Panchayats Regulation
(Amendment) Act, 1976

(Act No. 15 of 1976) [5th August, 1976]

AN

ACT

further to amend the Goa, Daman and Diu Village Panchayats Regulation, 1962.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa, Daman and Diu Village Panchayats Regulation (Amendment) Act, 1976.

(2) It shall come into force at once.

2. *Amendment of section 39.*—In section 39 of the Goa, Daman and Diu Village Panchayats Regulation, 1962, in sub-section (1), after clause (m), the following clause shall be inserted, namely:—

Regulation 9 of 1962.

“(m-1) fees for use of slaughter house established by Village Panchayat;”.

Secretariat,

Panaji,

17th August, 1976

K. C. D. GANGWANI

Secretary to the Government
of Goa, Daman and Diu
Law and Judiciary Department

Notification

LD/Bill/5/76

The following Bill passed by the Legislative Assembly of Goa, Daman and Diu which received the assent of the President of India on 5th August, 1976 is hereby published for general information.

B. S. Subbanna, Draftsman.

Panaji, 20th August, 1976.

The Goa, Daman and Diu Habitual Offenders Act, 1976

(Act No. 16 of 1976) [5th August, 1976]

AN
ACT

to make better provision for the treatment and training of habitual offenders and for certain other matters.

Whereas it is expedient to make better provision for the treatment and training of habitual offenders, and for certain other matters.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I Preliminary

1. **Short title, extent and commencement.**—(1) This Act may be called the Goa, Daman and Diu Habitual Offenders Act, 1976.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) “Code” means the Code of Criminal Procedure, 1973; Central Act
2 of 1974

(b) “corrective settlement” means any place established, approved or certified as a corrective settlement under section 14;

(c) “district” means the area declared as a district under the provisions of section 3 of the Goa, Daman and Diu Land Revenue Code, 1938; 9 of 1969

(d) “District Magistrate” means, in relation to the District of Goa, the District Magistrate of Goa, or, in relation to the District of Daman or Diu, any officer empowered in this behalf by the Government, by notification in the Official Gazette, to exercise the powers of a District Magistrate under this Act;

(e) “Government” means the Government of the Union territory of Goa, Daman and Diu;

(f) “habitual offender” means any person who, since his attaining the age of eighteen years, has during any consecutive period (whether before or after the commencement of this Act, or partly before and partly after such commencement) of five years, been sentenced on conviction, on not less than three occasions, to a substantive term of imprisonment for one or more of the scheduled offences committed on separate occasions, being offences which are not connected together as to form parts of the same transaction and such sentence has not been reversed in appeal or revision.

Explanation.—In computing the consecutive period of five years aforesaid, any period spent in jail either under a sentence of imprisonment or under detention shall not be taken into account;

(g) “prescribed” means prescribed by rules made under this Act;

(h) “registered offender” means a habitual offender registered or re-registered under this Act;

(i) “scheduled offence” means an offence specified in the Schedule or an offence analogous thereto;

(j) “Superintendent of Police” means any officer appointed by the Government, by notification in the Official Gazette, to perform the duties of a Superintendent of Police under this Act.

CHAPTER II

Registration of habitual offenders and restriction of their movements

3. **Power of Government to direct registration of habitual offenders.**—The Government may direct the District Magistrate to make a register of habitual offenders within his district, by entering therein the names and other prescribed particulars of such offenders.

4. **Procedure for preparing a register of habitual offenders.**—For the purpose of carrying out the direction given under section 3, the District Magistrate or any officer authorised by him in this behalf shall, by notice in the prescribed form to be served in the prescribed manner, call upon every habitual offender in the district—

(a) to appear before him at a time and place specified in the notice;

(b) to furnish such information as may be necessary to enable him to enter the name and other prescribed particulars of the habitual offender in the register; and

(c) to allow the finger and palm impressions, foot prints and photographs of the habitual offender to be taken:

Provided that the name and other prescribed particulars of a habitual offender shall not be en-

tered in the register, unless he has been given reasonable opportunity of showing cause why such entry should not be made.

5. Charge of register and alterations therein. —

(1) The register shall be placed in the keeping of the Superintendent of Police of the district who shall, from time to time, report to the District Magistrate any alterations which ought, in his opinion, to be made therein.

(2) After the register has been placed in the keeping of the Superintendent of Police, no fresh entry shall be made in the register, nor shall any entry be cancelled except by or under, an order in writing of the District Magistrate.

6. Power to take finger and palm impressions, footprints and photographs at any time. — The District Magistrate, or any officer authorised by him in this behalf, may at any time order the finger and palm impressions, footprints and photographs, of any registered offender to be taken.

7. Registered offenders to notify change of residence and to report themselves. — (1) Every registered offender shall notify to such authority, and in such manner, as may be prescribed, any change or intended change of his ordinary residence:

Provided that where such offender changes, or intends to change, his ordinary residence to another district (whether within the Union territory of Goa, Daman and Diu or not), he shall notify the change or intended change to the District Magistrate.

(2) The District Magistrate may, by order in writing, direct that any registered offender shall —

(a) report himself once in each month, or where the District Magistrate for reasons specified in the order so directs, more frequently, to such authority, and in such manner, as may be specified in the order, and

(b) notify any absence or intended absence from his ordinary residence to the aforesaid authority:

Provided that the District Magistrate may exempt any such offender from notifying any absence or intended absence from his ordinary residence for such period, and under such conditions as to him appear reasonable.

8. Procedure by District Magistrate on change of residence of habitual offender to other district. — (1) Where any registered offender changes his ordinary residence to another district within the Union territory of Goa, Daman and Diu, the District Magistrate of the District in which the offender is registered shall inform the District Magistrate of the other district of such change, and at the same time furnish him with the name and other particulars relating to the registered offender in the register.

(2) On the receipt of such information, the District Magistrate of the other district shall enter in his register the name and other particulars of the registered offender furnished to him, and inform the District Magistrate of the first district of such registration, and thereupon such District Magistrate shall cancel from his register the entry relating to that registered offender:

Provided that where a registered offender changes his ordinary residence to another district outside

the Union territory of Goa, Daman and Diu, the District Magistrate of the first district shall, while furnishing the District Magistrate of the other district with the name and other particulars of the registered offender, make a request to that District Magistrate that he may be informed of the steps, if any, which may have been taken in relation to the offender under any law for the time being in force in that other district; and upon the receipt of such information, the District Magistrate of the first district shall cancel from his register the entry relating to that registered offender.

(3) Upon the entry of the name and other particulars of a registered offender in any register in the Union territory of Goa, Daman and Diu under sub-section (2), the provisions of this Act and the rules made thereunder shall apply to him as if he has been registered, in pursuance of a direction given under section 3, in the register of the district to which he has changed his ordinary residence.

9. Duration of registration and re-registration of habitual offenders. — (1) Subject to the provisions of sub-section (3), the registration of a habitual offender under this Act shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such registration, and on such cancellation or expiry, the habitual offender shall cease to be registered offender.

(2) Notwithstanding the cancellation, or expiry of duration, of registration, a habitual offender may be re-registered in accordance with the provisions of this Act relating to registration, as often as he is convicted of one or more of the scheduled offences at any time after such cancellation or expiry; and subject to the provisions of sub-section (3), the re-registration shall, unless earlier cancelled, cease to be in force on the expiry of five years from the date of such re-registration.

(3) Where a registered offender is, during the period of registration or re-registration, convicted of one or more of the scheduled offences and sentenced to a substantive term of imprisonment, the duration of registration or re-registration shall be extended for a period of five years from the date of his release from such imprisonment.

10. Right to make representations against registration or re-registration, etc. — (1) Any person aggrieved by the registration, or re-registration, of his name under section 4, or as the case may be, section 9, or by an order under sub-section (2) of section 7, may within the prescribed period make a representation to the Government against such registration, re-registration or order.

(2) The Government shall, after considering the representation, and giving the aggrieved person an opportunity of being heard, either confirm or cancel the registration, re-registration or order, as the case may be, and shall in the case of confirmation record a brief statement of the reasons therefor.

11. Power to restrict movements of registered offenders. — (1) If in the opinion of the Government it is necessary or expedient in the interest of the general public so to do, the Government may, subject to the provisions of sub-section (4), by order direct that any registered offender shall be restricted in his movements to such area, and for such

period not exceeding three years, as may be specified in the order.

(2) Before making any such order the Government shall take into consideration the following matters, that is to say, —

(a) the nature of the offences of which the registered offender has been convicted, and the circumstances in which the offences were committed;

(b) whether the registered offender follows any lawful occupation, and whether such occupation is conducive to an honest and settled way of life and is not merely a pretence for the purpose of facilitating the commission of crime;

(c) the suitability of the area to which his movements are to be restricted; and

(d) the manner in which the registered offender may earn his living within the restricted area, and the adequacy of arrangements which are, or are likely to be, available therefor.

(3) A copy of the order shall be served on the registered offender in the prescribed manner.

(4) The period specified in an order under sub-section (1) in no case extend beyond the period of registration or re-registration as the case may be, referred to in section 9.

12. Power to cancel or alter restrictions of movements. — The Government may, by order, cancel any order made under section 11, or alter any area specified in an order under that section:

Provided that before making such order, the Government shall consider the matters referred to in sub-section (2) of section 11 in so far as they may be applicable.

13. Powers under sections 11 and 12 also exercisable by certain Magistrates. — (1) Subject to the provisions of sub-section (3), the powers of the Government under sections 11 and 12 may be exercised also by a Magistrate having power to act under section 110 of the Code, but without prejudice to the exercise of his powers under that section of the Code.

(2) A Magistrate acting under section 11 or 12 shall follow, as nearly as may be, the procedure laid down in sections 111, 112, 113, 114 and 116 of the Code for an order requiring security for good behaviour:

Provided that the order in writing referred to in section 111 of the Code shall, in addition to setting forth the substance of the information received, state the term, not exceeding three years, during which the order of restriction shall be in force.

(3) Where the Government has already made an order under section 11 in respect of a habitual offender, the Magistrate shall not exercise any powers conferred by this section in respect of the same habitual offender, during any period in which the order of the Government is in force.

CHAPTER III

Corrective training of habitual offenders

14. Establishment of corrective settlements. — (1) For the purpose of placing therein such habitual offenders as are directed to receive corrective training

under this Act, the Government may, by notification in the Official Gazette, establish and maintain in the Union territory of Goa, Daman and Diu as many corrective settlements as it thinks fit.

(2) The Government may also approve or certify any privately managed institution (whether known as a settlement or otherwise) as a corrective settlement for the purposes of this Act.

15. Power to direct habitual offenders to receive corrective training. — (1) Where the Government is satisfied from the report of the District Magistrate or otherwise, that it is expedient with a view to the reformation of a registered offender and the prevention of crime, that the registered offender should receive training of a corrective character for a substantial period, the Government may by order in writing direct that the registered offender shall receive training of a corrective character for such period, not exceeding the duration of his registration or re-registration, as may be specified in the order.

(2) Where a habitual offender, who is not more than forty years of age, —

(a) is convicted of any offence punishable with imprisonment, or

(b) is required in pursuance of section 110 of the Code to execute a bond for his good behaviour, and the Court or the Magistrate is satisfied from the evidence in the case and other materials on record that it is expedient with a view to his reformation and the prevention of crime, that he should receive training of a corrective character, for a substantial period, the Court or the Magistrate may, in lieu of sentencing him for such offence or,

as the case may be, requiring him to execute such bond, direct that he shall receive corrective training for such term of not less than two and not more than five years, as the Court or the Magistrate may determine.

(3) Before giving any direction under sub-section (1) or sub-section (2), the Government, the Court or the Magistrate, as the case may be, shall —

(a) consult the officer prescribed on the capacity of the corrective settlements to receive the habitual offender,

(b) take into consideration the physical and mental condition of the offender, and his suitability for receiving corrective training in a corrective settlement, and

(c) give a reasonable opportunity to the offender to show cause why such direction should not be given.

(4) A habitual offender, in respect of whom a direction to receive corrective training has been made, shall be placed in a corrective settlement for the term of his training, and while in such settlement shall be treated in such manner and receive such training as may be prescribed.

16. Power to transfer or discharge from corrective settlement. — The Government, or any officer authorised by it in this behalf, may at any time by order in writing direct any habitual offender who may be in a corrective settlement to be transferred to another corrective settlement or to be discharged therefrom; and accordingly he shall be so transferred or, as the case may be, discharged.

CHAPTER IV Penalties and procedure

17. Penalty for failure to comply with certain provisions of the Act.—A habitual offender who without lawful excuse, the burden of proving which shall lie upon him, —

(a) fails to appear in compliance with a notice issued under section 4, or

(b) intentionally omits to furnish any information required under that section, or furnishes as true any information which he knows, or has reason to believe, to be false or does not believe to be true, or

(c) refuses to allow his finger and palm impressions, foot-prints and photographs to be taken by any person acting under an order passed under section 6, or

(d) fails to comply with the provisions of sub-section (1) of section 7 or with an order of the District Magistrate under sub-section (2) thereof or with an order under section 11, may be arrested without warrant, and shall be punished —

(i) on first conviction, with imprisonment for a term which may extend to six months or with fine which may extend to two hundred rupees, or with both, and

(ii) on a second or subsequent conviction, with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees, or with both:

Provided that, if the Court, after taking into consideration the offender's age and physical and mental condition and his suitability for receiving training of a corrective character in a corrective settlement, is satisfied that it is expedient with a view to his reformation and the prevention of crime, that he should receive training of a corrective character for a substantial period, the Court may, in lieu of sentencing the offender to any punishment under this section, direct, after giving him an opportunity of showing cause (and after consulting the officer prescribed on the capacity of the corrective settlements to receive him) that he shall receive corrective training in a corrective settlement for such term not exceeding three years, as it may determine.

18. Arrest of persons found outside restriction area of corrective settlement.—If any habitual offender —

(a) is found outside the area to which his movements have been restricted in contravention of the conditions under which he is permitted to leave such area, or

(b) escapes from any corrective settlement in which he is placed,

he may be arrested without warrant by a police-officer, and taken before a Magistrate who, on proof of the facts, may order him to be removed to such area or to such corrective settlement, there to be dealt with in accordance with this Act and the rules made thereunder.

19. Enhanced punishment for certain previously convicted persons.—(1) Whoever, being a person in respect of whom a direction has been made under section 11, or section 15, and having been convicted

of any of the scheduled offences falling under Part I of the Schedule is convicted of the same or of any other scheduled offence falling in that Part shall, on conviction, be punished with imprisonment for life or with imprisonment for a term which may extend to ten years.

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or Central Act
45 of 1860 any other law.

20. Punishment for certain registered offenders found under suspicious circumstances.—Whoever, being a person in respect of whom a direction has been made under section 11, or section 15, is found in any place under such circumstances as to satisfy the Court —

(a) that he was about to commit, or aid in the commission of, theft or robbery, or

(b) that he was making preparation for committing theft or robbery,

shall, on conviction, be punished with imprisonment for a term which may extend to three years, and shall also be liable to a fine which may extend to one thousand rupees.

21. Penalty for failure to arrest a habitual offender.—If a police officer having an opportunity to arrest any person under section 18, fails to arrest him in circumstances which are not beyond his control, he shall on conviction be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to five hundred rupees, or with both.

CHAPTER V

Miscellaneous

22. Bar of jurisdiction.—No court shall question the validity of any direction or order issued under this Act.

23. Bar of legal proceedings.—No Suit, prosecution or other legal proceedings shall lie against the Government or any person for anything which is in good faith done or intended to be done under this Act.

24. Power to delegate.—The Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act except the power under section 25 may also be exercised subject to such conditions (if any) as may be specified in the notification, by such officer not below the rank of a District Magistrate as may be specified therein.

25. Power to make rules.—(1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of notice under section 4 and the manner in which such notice may be served;

(b) the form of the register of habitual offenders and the particulars to be entered therein;

(c) the authority to whom and the manner in which any change or intended change of ordinary residence shall be notified under sub-section (1) of section 7;

(d) the nature of restrictions to be observed by registered offenders whose movements have been restricted;

(e) the grant of certificate of identity to registered offenders and inspection of such certificates;

(f) the conditions under which the offenders may be permitted to leave the area to which their movements have been restricted or the corrective settlements in which they have been placed;

(g) the terms upon which offenders may be discharged from corrective settlements;

(h) the working, management, control and supervision of corrective settlements including the discipline and conduct of persons placed there in;

(i) the conditions for, and the manner of, approving or certifying privately managed settlements;

(j) the appointment of non-official visitors for corrective settlements;

(k) the conditions and circumstances under which members of the family of a habitual offender may be permitted to stay with him in a corrective settlement;

(l) the periodical review of the cases of all persons whose movements have been restricted or who are placed in corrective settlements under this Act;

(m) any other matter which is to be, or may be prescribed, under this Act.

(3) In making rules under this Act the Government may provide that a contravention of any of the rules shall be punishable with fine which may extend to one hundred rupees.

(4) Every rule made under this Act shall, as soon as may be, after it is made, be laid on the table of the Legislative Assembly, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

26. Savings.— Nothing in this Act shall affect the powers of any competent authority under any law for the time being in force to make an order of restriction or detention, and any order passed or direction made under this Act in so far as it conflicts with any order made by a competent authority under such law shall be deemed to be inoperative while the order under such law remains in force.

27. Repeal.— (1) Any law in force in the Union territory of Goa, Daman and Diu or any area thereof corresponding to any of the provisions of

this Act or any part thereof shall stand repealed as from the date of coming into force of this Act.

(2) The provisions of the General Central Act
Clauses Act, 1897 (as made applicable to 10 of 1897
the Union territory of Goa, Daman and
Diu by section 2 of the Goa, Daman and
Diu General Clauses Act, 1965) shall 7 of 1965
apply to the repeal under sub-section (1)
as if the laws referred to therein were
enactments.

THE SCHEDULE

[See section 2(i)]

I

Offences under the Indian Penal Code (45 of 1860)

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- 234 Making or selling instruments for counterfeiting Indian coin.
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- 243 Possession of Indian coin by person who knew it to be counterfeit when he became possessed thereof.

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II

**Offence under the Suppression of Immoral Traffic
In Women and Girls Act, 1956 (Central
Act 104 of 1956)**

- 4 Living on the earning of prostitution.

Secretariat,

K. C. D. GANGWANI

Panaji,

Secretary to the Government
of Goa, Daman and Diu

20th August, 1976.

Law and Judiciary Department

Notification

LD/3317/76

The following Order which was issued by the Government of India on 22nd August 1975 is hereby republished for general information of the public.

B. S. Subbanna, Draftsman.

Panaji, 19th August, 1976.

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND CIVIL SUPPLIES

(Department of Civil Supplies and Co-operation)

New Delhi, the 22nd August, 1975

Order

S. O. No. 443 (E). In exercise of the powers conferred by sub-rule (2) of rule 114 of the Defence

and Internal Security of India Rules, 1971, and in supersession of the Order of the Government of India in the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Co-operation), No. S.O. 389 (E), dated the 28th July, 1975, the Central Government hereby makes the following Order, namely:—

1. Short title, extent and commencement.— (1) This Order may be called the Packaged Commodities (Regulation) Order, 1975.

(2) It extends to the whole of India.

(3) It shall come into force on the 2nd day of October, 1975.

2. Definitions.— In this Order, unless the context otherwise requires.—

(a) “appointed day” means the day on which this Order comes into force,

(b) “batch” means,—

(i) in the case of packages which have been stored, where the total number of such packages does not exceed 100, all such packages, and, where the total number exceeds 100 but does not exceed 10,000 all the packages of the same type and of the same production run;

(ii) in the case of packages which are on or at the end of the packing line, the maximum hourly output of packages;

(c) “combination package” means a package intended for retail sale, containing two or more individual packages, or individual pieces, of dissimilar commodities;

(d) “Commodity in packaged form” means a commodity which has been pre-packed, whether in any bottle, tin, wrapper or otherwise, in units suitable for sale, whether wholesale or retail and such pre-packaging has been so made as to ensure that the commodity in the packaged form cannot be used or consumed without the package or its lid or its cap, as the case may be, being opened;

(e) “dealer”, in relation to any commodity in packaged form, means a person who, or a firm or a Hindu undivided family which, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any such packaged commodities whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes a commission agent who carries on such business on behalf of any principal, but does not include a manufacturer who manufactures any commodity which is sold or distributed in a packaged form except where such commodity is sold by such manufacturer;

(f) “drained weight”, in relation to solid commodity contained in a free flowing liquid, means the weight of such solid commodity after the liquid has been drained for a period of two minutes;

(g) “fancy package” means a package, the container of which has a fancy trade value of its own, in addition to the value of the commodity contained in such package;

(h) “group package” means a package intended for retail sale, containing two or more individual packages, or individual pieces, of similar but not identical, or dissimilar commodities;

(i) "label" means any written, marked, stamped, printed or graphic matter affixed to, or appearing upon, any commodity or package containing any commodity;

(j) "manufacturer", in relation to any commodity in packaged form, means a person who, or a firm or a Hindu undivided family which, produces, makes or manufactures such commodity and includes a person, firm or Hindu undivided family who or which puts, or causes to be put any mark on any packaged commodity, not produced, made or manufactured by him or it, and claims the commodity in the package to be a commodity produced, made or manufactured, by him or it;

(k) "maximum permissible error", in relation to the quantity contained in an individual package, means an error, in deficiency or excess, which does not exceed:—

(i) in relation to commodities specified in the First Schedule, the limits of error specified in that Schedule;

(ii) in relation to commodities not specified in the First Schedule, the limits of error specified in the Second Schedule;

(l) "Multi-piece package" means a package containing two or more individually packaged or labelled pieces of the same commodity, whether of identical quantity or not, intended for retail sale, either in individual pieces or the package as a whole;

(m) "pre-packed commodity" means a commodity which, without the purchaser being present, is placed in a package, of whatever nature, so that the quantity of the product contained therein has a pre-determined value and such value cannot be altered without the package or its lid or its cap, as the case may be, being opened or undergoing a perceptible modification;

GUIDELINES

The Order applies to pre-packed commodities which are ultimately sold or intended to be sold at the retail counter, as a package unit in pre-packed condition. The Order, therefore, does not apply to:

(i) Packages which are only packed for the purpose of safety in transit or storage and which are opened or may be opened at the retail counter for demonstration, sampling or inspection of the contents;

(ii) Packages of commodities which are sold at the retail point in loose form by weight, measure or number;

(iii) Packages of commodities which are not sold as packages but are weighed, measured or counted in the presence of customer and the price is charged on the basis of weight, measure or number so determined e. g. bags of gur, food-grains, tobacco, snuff etc.

(iv) gift packages given for charity, relief etc. Illustration of commodities excluded from the scope of the Order is given in Annexure I.

(n) "Price", in relation to a commodity in packaged form, means one of the following prices, namely:—

(i) ex-factory price, exclusive of freight, Central Sales tax and any taxes which may be levied and collected under any local law for the

time being in force for the retail sale of the package;

(ii) where the package is sold free on rail at the destination, the price payable at such destination;

(iii) the price of the package exclusive of any tax which may be levied and collected under any local law for the time being in force;

(iv) the retail sale price of the package;

GUIDELINES

It may be observed that in the first case the ex-factory price is not the usual ex-factory price as is usually understood under the established practices. In this Order it includes Central excise, commissions payable to the wholesaler/retailer and also other charges e. g. advertising, delivery, packing, forwarding etc. To arrive at the maximum retail price only freight, central sales tax and local taxes should be added to the ex-factory price as defined in the Order.

In the second case when the packages are sold free on rail or road at the destination, the price payable at such destination shall exclude the Central Sales-tax, local taxes and local transport charges but shall include rail or road freight, other taxes including Central Excise duty, commissions payable to the wholesaler/retailer and also other charges e. g. advertising, delivery, packing, forwarding etc.

In the third case the price indicated on the package shall be the maximum retail price exclusive of local taxes only. This may be in the following form "maximum retail price local taxes extra". This form is being adopted in respect of drugs already covered under separate control orders.

Other forms of expression may also be adopted.

In the fourth case the price indicated on the package shall be the maximum retail price inclusive of taxes and all charges, which the ultimate consumer is required to pay at the retail point.

To clarify the above points let us suppose:

P_1 — Price as meant in n (i)

P_2 — Price as meant in n (ii)

P_3 — Price as meant in n (iii)

P_4 — Price as meant in n (iv)

F_1 — Freight charges upto the rail or road destination

F_2 — Freight Charges (local) from the rail or road destination to the selling points

C.S.T. — Central Sales Tax

L.T. — Taxes levied under local laws such as sales tax, octroi etc.

R.S.P. — Maximum price at which the package is to be sold to the ultimate consumer at retail point

In case the price P_1 is marked on the package —

$R.S.P. = P_1 + F_1 + F_2 + C.S.T. + L.T.$

In case the price P_2 is marked on the Package —

$R.S.P. = P_2 + F_2 + C.S.T. + L.T.$

In case the Price P_3 is marked on the Package —

$R.S.P. = P_3 + L.T.$

In case the Price P_4 is marked on the package —

$R.S.P. = P_4$

Note:-

Price indicated in all the above four cases are maximum prices. In many cases actual sales may be effected below the maximum prices indicated. Hence the commutation of excise, sales tax etc. should be on the actual sales-price as indicated in cash register, invoices, bills, etc.

(o) "retail package" means a package containing any commodity which is produced, distributed or displayed, delivered or stored, for sale through retail sales agencies or other instrumentalities for consumption by an individual or a group of individuals;

(p) "retail sale price" means the maximum price at which the commodity in packaged form may be sold to the ultimate consumer, inclusive of all taxes, commissions, transport charges and other dues;

(q) "Schedule" means a Schedule to this Order;

(r) "wholesale package" means a package, other than a retail package, containing a commodity for wholesale delivery, distribution or sale or for transport or storage of a number of retail packages.

3. Particulars to be indicated on every package. —

(1) On and from the appointed day, no person shall pre-pack for retail sale, or cause to be pre-packed for retail sale, any commodity unless each retail package in which such commodity is pre-packed bears thereon or on a label securely affixed thereto, a declaration as to —

(i) the identity of the commodity in the package;

Provided that where the commodity is easily and correctly identifiable through a transparent container, no declaration as to the identity of such commodity shall be necessary;

(ii) the quantity, in terms of standard units of weight or measure, of the commodity in the package or, where the commodity is packaged or sold by number, the accurate number of the commodity contained in the package.

Explanation. — In the case of a solid commodity contained in a free flowing liquid, the quantity to be stated on the package or on the label thereon shall be drained weight of such solid commodity;

(iii) the month and the year in which the commodity is pre-packed.

Provided that no declaration as to the month and the year in which the commodity is pre-packed shall be required to be made on —

(a) a bottle containing liquid milk or aerated water;

GUIDELINES

"Liquid milk" includes other bottled liquid beverages containing milk as an ingredient.

"Aerated water" includes bottled ready-to-serve fruit beverages.

(b) any package containing bread, uncanned vegetables, fruits, ice-cream, butter, cheese and the like;

GUIDELINES

The expression "bread" includes all varieties of bread such as nan, bun, chappati, roti, brown bread and also items like cakes and pastries.

(c) any package containing steel products,

GUIDELINES

The expression "steel products" would include products made of any variety of iron and steel. Non-ferrous metals are not covered by this exemption.

(d) any cylinder containing liquid petroleum gas or any other gas:

Provided further that where any packaging material, bearing thereon the month in which any commodity was expected to have been pre-packed, is not exhausted during the month such packaging material may be used for pre-packaging the concerned commodity produced or manufactured during the next succeeding month but not thereafter, and, where any such packaging material is exhausted before the expiry of the month packaging material intended to be used during the next succeeding month may be used for pre-packaging the concerned commodity.

Explanation. — The month and year in which a commodity is packed may be expressed in words, or numerals, indicating the month and the year; and

(iv) the price of the package:

Provided that no declaration as to the price shall be required to be made on.

(a) any package containing uncanned vegetables, fruits, fish, ice-cream, butter, cheese or the like;

(b) any bottle containing liquid milk, aerated water, alcoholic beverages, spirituous liquor or the like;

Explanation. — "Liquid milk" does not include condensed milk;

GUIDELINES

"Liquid Milk" includes other bottled liquid beverages containing milk as an ingredient.

"Aerated water" includes bottled ready-to-serve fruit beverages.

(c) any package containing a commodity for which any controlled price has been fixed by or under any law for the time being in force.

GUIDELINES

This provision has been made to provide for making controlled prices by retailers on packaged commodities for which a control price has been fixed in the case of cement the controlled prices are fixed by Collectors inclusive of local transport charges. In respect of commodities for which such prices have been fixed and where under the above provision the manufacturer does not mark the prices the dealer under para 5 of this order is required to mark the retail prices.

(2) Where a package in which a commodity has been pre-packed is opened and the commodity contained therein is sold to one or more persons, the

price to be charged from the purchaser shall bear the same proportion to price of the package as the quantity sold to the purchaser bears to the total quantity contained in the package.

GUIDELINES

The pro-rata fixation as envisaged above will not be applicable to drugs and pharmaceuticals where control prices are fixed in respect of pro-rata sales. For example, under the control order for drugs higher pro-rata price is fixed for sale of tablets in loose form packages.

(3) Notwithstanding anything contained in subparagraph (1), the manufacturer or, where the manufacturer is not the packer, the packer, may pre-pack, or cause to be pre-packed, any commodity without indicating on the package the price of the package if such package is intended to be delivered to a wholesaler, and in the case of such a package, the wholesaler shall, before any such package is issued for retail sale, securely affix on each such package or the label thereon the retail sale price of the package and such price shall be affixed in accordance with the price communicated to him by the manufacturer, or where the manufacturer is not the packer, the packer.

GUIDELINES

This is a provision to enable manufacturers or packers to fix responsibility on their wholesaler to fix the retail sale price on the package. It may be observed that where the wholesaler does not carry out his responsibility, the liability will be that of the manufacturer/packer and the manufacturer/packer will be liable for any breach of the provisions of this order.

In the case of LPG Cylinders, distributors/stockists are to be treated as wholesalers as they perform the function of wholesaler as well.

In the case of packages of lubricating oil and greases

distributors/dealers are to be treated as wholesaler. Price tags fixed by them on these packages will be taken as if approved by the manufacturers until the final recommendation of the oil pricing Committee has been formulated and decision taken by the Government.

(4) Where indication on a package of its net contents and the price is either impossible or impracticable by reason of the size or nature of such package, a label, stamp, sign or tag indicating the net contents and the price shall be attached to each such package.

(5) The declaration, on a package, as to the quantity contained in the package, shall be exclusive of wrappers and materials other than the commodity contained in the package:

Provided that where a package contains a large number of small items of confectionary, each of which is separately wrapped and it is not reasonably practicable to exclude from the net weight, the weight of the wrappers of all confectionary contained in the package, the net weight declared on the package or on the label thereon may include the weight of such wrappers.

(6) Where a package is provided with an outside container or wrapper, such wrapper or container shall also contain all the information which are required to bear on the package except where such container or wrapper itself is transparent and informations on the package itself are easily readable through such outside wrapper or container.

GUIDELINES

If the outside container or wrapper is so sealed that the package inside the container or wrapper cannot be taken out without causing damage to it, it will be sufficient if all the information stipulated in the Order are put only on the outside container or wrapper.

Example.—Under the existing practices every individual tube of shaving cream, tooth paste, ointment or individual ampoule of some commodities is put inside a carton or the like. In accordance with the above para both the tube and the outer carton should bear the required information. If however, the outer carton is so sealed that the tube or the like cannot be taken out without causing perceptible modification in the packing it is not necessary for the individual tube or ampoule in such a case to bear the required informations which will be carried only by the outer carton.

One difficulty has arisen regarding the marking on Nirodh packages. Here the outer packet will contain the price marking of 25 Ps. but the individual aluminium foil within the package will contain a price marking of total 15 Ps. The price marking of 15 Ps. should be ignored, as has been done on inventories of aluminium foil indented before the operation of the Order. However, since the outer packet has a definite price marking the discrepancy in the individual aluminium foil within the container may be ignored.

(7) The statement on a package or label as to the net weight, measure or number of the contents thereof shall not include an expression which tends to qualify such weight, measure or number:

Provided that where the commodity contained in the package is such that it is likely to lose or gain weight by reason of the climatic conditions, the net weight or measure indicated on the package or label may be qualified by the words "when packed".

(8) Where any package containing a commodity (pre-packed on or after the appointed day) or the label thereon bears a representation thereon as to the number of servings of the commodity contained therein, such package or label shall also bear thereon a statement as to the net quantity, in terms of weight, measure or number, for each such servings.

4. Name and address of the packer to be indicated on each package.—Every package referred to in paragraph 3 shall also bear thereon the name and complete address of the manufacturer, or, where manufacturer is not the packer, of the packer:

Provided that where by reason of the smallness of a package it is not reasonably practicable to indicate the name and complete address of the manufacturer or packer on the package, it shall be sufficient compliance with this paragraph if a mark or inscription which would enable the consumer to identify the

manufacturer or packer, as the case may be, is made on such package.

Explanation. — "Complete address" means, in the case of a company, the address at which its registered office is situated, and, in any other case, the name of the street, number (if any) assigned to the premises of the manufacturer or packer, and either the name of the city and State where the business is carried on by the manufacturer or packer or the PIN Code.

GUIDELINES

Queries have been received as to whether it would be sufficient if the name of the factory is indicated and not the name of the factory is indicated and not the name of the company, the registered office of which is in a different place from that of the factory. It is clarified that regarding indication about name of the company with address, it is sufficient if the address is given of the registered office by designation of the city like Ahmedabad, Calcutta, etc. The name of the factory may also be mentioned though it is not mandatory.

5. Sale, delivery and distribution of packaged commodities not complying with the provisions of paragraphs 3 and 4 prohibited. — (1) No dealer or other person shall sell, deliver or distribute, or cause to be sold, delivered or distributed, or offer, expose or possess for sale, any commodity in a packaged form which was pre-packed on or after the appointed day unless such package complies with the requirements of paragraphs 3 and 4:

Provided that nothing in this sub-paragraph shall apply to any commodity in packaged form which is imported into India.

GUIDELINES

Packaged commodities imported are not covered by the Order, e.g. ORWO films Imported fertilizers in bags which bear the legend of the foreign supplier, country of origin, and "Food Corporation of India" or "Indian Potash Supply Agency" or "India, Department of Agriculture" are excluded from this Order.

(2) On and from the appointed day, every dealer or other person who makes a retail sale of a commodity in packaged form shall, except where the retail sale price is already indicated on such package, indicate the retail sale price on each package but where it is not reasonably practicable to indicate the retail sale price on every package, he shall display, prominently and at a conspicuous place of the premises in which he carries on such retail sale, the retail sale price of the commodity contained in such package.

(3) In indicating the retail sale price on a package, the person who makes a retail sale, shall adhere to the price list, if any, supplied to him by the manufacturer or packer.

GUIDELINES

It is not mandatory for the manufacturer to supply price list to retailer. But in case such a price list is supplied the retailer shall adhere to the price list.

(4) No dealer or other person shall make any retail sale of a commodity in a packaged form at a price exceeding the retail sale price thereof.

6. Manner of declaration. — Every declaration which is required to be made on a package under this Order shall be —

(a) legible, prominent, definite and plain,

(b) conspicuous as to size, number and colour,

(c) in such style or type of lettering as to be boldly, clearly and conspicuously presented in distinct contrast to the other type, lettering or graphic material used on the package,

and shall be printed, painted, inscribed or otherwise made on the package in a colour which contrasts conspicuously with the background of the label:

Provided that where whole of such information is blown, formed or moulded on a glass or plastic surface or where such information is embossed or performed on a package, such information shall not be required to be presented in a contrasting colour.

7. Declarations on combination and other package.

— (1) The declarations on a combination package shall contain an indication of the net weight, measure or number, as the case may be, in respect of each commodity contained in the package and the price of the combination package, and where individual commodities in the combination package are packaged and labelled separately, each such individual commodity shall bear thereon a declaration as to the net quantity contained in such individual piece and the price thereof.

(2) The declarations on a group package shall contain the number of pieces of each commodity contained in such package, followed by the net weight, measure or number, as the case may be, the total number of pieces contained in the group package and the price of the group package; and where individual pieces in a group package are packaged and labelled separately and are capable of being sold as individual pieces, each such individual piece shall bear thereon a declaration as to the net quantity contained in such individual piece and the price thereof.

(3) Every multi-piece package shall bear on the outside of the package a declaration of the number of individual pieces of the commodity contained therein, the total quantity contained in the multi-piece package and the price of the multi-piece package; and where each individual piece of a multi-piece package is packaged and labelled separately and is capable of being sold separately, each such individual piece shall bear thereon a declaration as to the quantity contained in such individual piece and the price thereof.

GUIDELINES

An example is a snuff packet. These packets are packed in multi-piece packages. The outer cover of the multi-piece package should bear the price, weight/measure or number, identity and address. Individual pieces within the multi-piece package like individual snuff packets should bear all the required particulars. The marking of the date on individual piece i.e. on individual snuff packets is not mandatory.

(4) Where the diameter, thickness and width, or any combination thereof, of a commodity has or have a relationship to the price of that commodity, the

declaration of quantity on the package containing such commodity shall also include a declaration as to the diameter, thickness or width of such commodity.

(5) In the case of a package containing sheets, like, aluminium foil, facial tissues, waxed paper, toilet paper or any other type of sheet, the declaration of quantity on the package containing such sheets shall also include a statement as to the number of usable sheets contained in the package and the dimensions of each such sheet.

GUIDELINES

Paper as such is exempted from the provision of the order because it is sold in bulk or for industrial uses or sold loose in retail. However, when it is sold at retail points in packages containing sheets, the package shall bear an indication of the number of usable sheets and the dimension of each sheet e. g. one ream or 500 sheets size 29.7×42 cm the exact size of the sheet to be specified in metric system).

(6) In relation to fancy packages, the information required to be indicated on the package may be indicated at the bottom of the package may be indicated at the bottom of the package or by tag securely attached to the package.

8. Determination of quantity and error by authorised persons at the premises of the manufacturer or packer.—(1) Any person authorised by the Central Government in this behalf (hereafter referred to as the authorised person) may carry out checks of packages at the premises of the manufacturer, or, where the manufacturer is not the packer, of the packer, for the purpose of determining whether the quantity of the commodity contained in a package corresponds to the quantity declared thereon or on the label affixed, thereto and to check their conformity to this order, and for this purpose the authorised person shall have the power to enter into the premises of the manufacturer or packer, as the case may be, and to draw 20 samples at random from each batch of packages.

GUIDELINES

The Central Government have authorised every officer of and above the rank of Assistant Controller of Weights and Measures in the State to carry out the provisions of paragraph 8. A copy of the notification is given at Annexure — III.

(2) The authorised person shall carry out tests with regard to each of the packages drawn by him as samples and shall ascertain whether the net quantity contained in each of the said packages corresponds to the net quantity declared on each such package, and in case it does not, determine the extent of the error and shall make a written record of the detailed results of the tests carried out by him and obtain the signatures of the manufacturer or packer or any person authorised by the manufacturer or packer in this behalf, or in the absence of any of them, of any competent witness, on the written record containing such results.

(3) On the completion of the tests, the authorised person shall make out a report indicating therein his findings about the actual net quantity or the extent of error and obtain the signatures of the manufac-

turer or packer or any person authorised by the manufacturer or packer in this behalf, or, in the absence of any of them, of a competent witness on the said report, and forward the report to the Central Government or such authority as may be specified by the Central Government in this behalf.

GUIDELINES

The officer to whom the report is to be forwarded is the Director of Weights and Measures, Government of India. A copy of the Notification is at Annexure IV.

(4) If, as a result of the tests aforesaid, it is found by the authorised person that the statistical average of the net quantity contained in the sample packages checked by him is equal to, or in excess of, the quantity declared on the packages, it shall be deemed to be within the maximum permissible error.

(5) If, as a result of the test aforesaid, it is found that—

(a) the statistical average of the quantity contained in the sample packages checked by the authorised person is less than the quantity declared on the package; or

(b) the error in more than ten percent of the sample packages checked by the authorised person exceeds the maximum permissible error specified in the concerned schedule to this Order in relation to the commodity concerned, the manufacturer or, where the manufacturer is not the packer, the packer, shall be deemed to have contravened this order.

GUIDELINES

Excess of the maximum permissible error are to be ignored in respect of commodities covered under the Prevention of Food Adulteration Act e. g. biscuits, aerated waters, beverages, etc.

(6) For the avoidance of doubts, it is hereby declared that no test as to the net quantity of any commodity contained in a package shall be carried on at any premises except at the premises of the manufacturer or, where the manufacturer is not the packer, of the packer.

9. Presumption in case of existing packages.—Any commodity in a packaged form which does not bear thereon informations required to be specified by this order, shall be presumed, for a period of three months from the appointed day, to have been—

(a) pre-packed before the appointed day, or

(b) pre-packed with packaging materials which were in stock before the appointed day,

and nothing in this order shall apply, during the period aforesaid, to or in relation to any such package.

GUIDELINES

The object of this provision is that up to 2nd January, 1976 un-marked packages could be presumed, unless the contrary is proved, to have been pre-packed before the 2nd January, 1976. After the 2nd January, 1976 the presumption will no longer apply. Therefore the onus would be of the retailer to prove that the unmarked packages were pre-packed before 1st January, 1976.

This onus can be discharged by retailer showing such documents from the manufacturer as refer to batch numbers etc. which would establish that the products were manufactured or pre-packed prior to 2-1-76. It would, therefore, be advisable for the manufacturers/packers to provide a sticker on packages indicating that the commodities were pre-packed before 2-1-76. In several cases like drugs and Nirodh, the date of manufacture is already given on the container and this will give a clear indication that the commodity was pre-packed before the enforcement of the Order.

10. Public servants who may make report for any contravention of this order.—For the purposes of sub-rule (1) of rule 183 of the Defence and Internal Security of India Rules, 1971, no report with regard to the contravention of any provisions of the Order,—

(a) by any manufacturer or packer, shall be made by public servant other than an officer of the Government of India of or above the rank of Joint Secretary.

GUIDELINES

Reports regarding sanction of prosecution may be sent to the Joint Secretary, Civil Supplies indicating clearly the name of the manufacturer, clear description of the packages in respect of which there has been violation of the order and other relevant particulars.

(b) by any other person, shall be made by any officer of the state Government below the rank of an Executive Magistrate or of an equivalent rank.

GUIDELINES

It is suggested that an officer of the rank of Executive Magistrate only check the premises of the dealer and commodities for search and seizure, etc. if necessary for the determination of any offences under the Order.

11. Order not to apply to certain packages.—Nothing in this order shall apply to any package containing a commodity if—

(a) it is needed for use in any industry, whether as raw material or otherwise:

Provided that this exemption shall not apply to any yarn which is sold in "hanks" to handloom weavers;

GUIDELINES

It also covers raw materials and components to be used for any manufacturing, processing or assembly activity.

(a) it is needed for the purpose of servicing any industry;

GUIDELINES

Servicing includes aiding the manufacturing, processing or assembly activities.

Industry in (a) & (b) includes the followings:

Workshops, state Transport undertakings, National Laboratories, Recognised Research and Education Institutions, Defence Installation, Service Stations, Furniture Workshops, Building Contractors, Electric Motor Manufacturers, Government/Quasi Government Department, Printing Press, State Electricity Boards.

HOSPITALS, WELFARE INSTITUTIONS

Illustrated list of items required either as industrial raw material or for the purpose of servicing an industry shown at Annexure II are exempted from the purview of the order.

(c) it is wholesale package;

(d) it is for the purpose of mining or quarrying;

(e) the net weight or measure, in the case of vanaspati, edible oils or animal feed, exceeds fifteen kilograms or fifteen litres;

GUIDELINES

The term edible oil will include ghee for the purpose of this order. The term animal feed will include oil cakes.

(f) the net weight or measure of the commodity is twenty grams or twenty millilitres, or less,

GUIDELINES

This exemption in respect of (f) is applicable to the packages of only those commodities which are sold by weight or volume (capacity measure). Packages of commodities sold by number such as match boxes, cigarettes, tooth brushes, crayons etc. are not covered by this Exemption.

(g) it is intended for bulk consumption by any industry or trade.

Explanation.—A commodity shall be deemed to be intended for bulk consumption if its net weight or measure exceeds 500 kilograms or 500 litres or 500 metres;

(h) it is intended for the purpose of export;

Provided that if any such package is found to be sold or distributed for consumption in any part of the territory of India, it shall be liable to be forfeited to Government;

(i) it contains bidis or incense sticks.

GUIDELINES

The term incense sticks will include "dhoopbattis, agarbattis and oodubattis" for the purpose of this order.

12. Power to exempt.—The Central Government may, if it is of opinion that it is necessary or expedient so to do, exempt any manufacturer, packer or class of manufacturers or packers from all or any of the provisions of this order.

FIRST SCHEDULE

[See paragraph 2(k) and sub-paragraphs (4) and (5) of paragraph 8]

Maximum permissible errors in relation to the quantity contained in an individual package

Sr. No.	Description of commodity	Declared quantity	Maximum permissible error in excess or in deficiency
1	2	3	4
1.	BISCUITS	(i) Not more than 500 kg.	7.0 percent
		(ii) More than 500 kg. but not more than 1 kg.	6.0 percent

1	2	3	4
2. BREAD	(i) Not more than 500 kg.	6.0 percent	
	(ii) More than 500 kg. but not more than 1 kg.	4.0 percent	
3. CEMENT	(i) 50 kg. bag at the factory	2.0 percent	
	(ii) 50 kg. bag in retail trade	3.0 percent	
4. DETERGENTS	1 kg. or less	5.0 percent	
5. GHEE, VANASPATHI AND EDIBLE OILS	(i) Not more than 2 kg.	1.5 percent	
	(ii) More than 2 kg. but not more than 4 kg.	1.25 percent	
	(iii) More than 4 kg.	0.6 percent	
6. INFANT FOODS Will include malted milk foods such as horlicks, viva, bournvita, ovaltine etc. for the purpose of this order.	(i) Not more than 100 kg.	5.0 percent	
	(ii) More than 100 kg. but not more than 1 kg.	4.0 percent	
	(iii) More than 1 kg.	3.0 percent	
7. MILK	(i) Not more than 100 ml.	5 ml.	
	(ii) More than 100 ml. but not more than 250 ml.	8 ml.	
	(iii) More than 250 ml.	10 ml.	
8. PROVISIONS SOLD IN POLYTHENE BAGS OR PLASTIC BAGS Foodgrains, pulses, edible seeds, spices (whole or broken but not powdered), powdered commodities (such as, chilli powder, papper powder, coffee powder, washing soda, atta, table salt and the like), dry fruits, seeds and other commodities, (such as sugar, gur, khandsari and the like).	(i) Not more than 100 g.	3.0 percent	
	(ii) More than 100 g. but not more than 500 g.	2.0 percent	
	(iii) More than 500 g. but not more than 1 kg.	1.5 percent	
	(iv) More than 1 kg.	0.75 percent	
9. SAFETY MATCH BOXES	Containing not more than 50 sticks	8.0 percent	
10. TEA		2.0 percent at the place of packing	

SECOND SCHEDULE

(See paragraph 2(k) and sub-paragraphs (4) and (5) of paragraph 8)

Maximum permissible errors in relation to packaged commodities not specified in the first Schedule

1. Classification of commodities packaged or sold by weight or volume. — (1) For the purpose of specifying the maximum permissible errors packaged commodities not specified in the First Schedule, which are intended to be sold, delivered or distributed by weight or volume, shall be divided into two classes, namely, Class 'A' and Class 'B'.

(2) The following categories of commodities shall fall within Class 'A', namely: —

(a) commodities contained in a package, the net weight or volume of which does not exceed 25 grams or 25 cubic centimetres or (millilitres);

(b) commodities, the flow properties, density, or both of which cannot be maintained constant except with the help of considerable special technical effort;

(c) commodities containing several substances of different densities or different physical phases, the packaging of which requires several operations;

(d) commodities which require several operations for packaging;

(e) commodities which, after they have been packed, are subjected to additional processing, such as, heat treatment which is likely to affect the weight of the commodities in irregular and no unpredictable manner;

(f) commodities composed of pieces, fragments or grains in which the maximum weight of each piece, fragment or grain is greater than or equal to the maximum permissible error corresponding to the net quantity contained in that package, if the commodity is considered as belonging to Class 'B'.

(g) liquid commodities.

(3) Any commodity which does not fall within Class 'A' shall fall within Class 'B'.

2. Maximum permissible errors on net quantity declared by weight or volume. — (1) The maximum permissible error, in excess or in deficiency, in the net quantity by weight or volume of any commodity belonging to Class 'A' or Class 'B' shall be as specified in Table I.

TABLE I

Maximum permissible errors on net quantities declared by weight or by volume

Sr. No.	Declared quantity g or cm ³ (ml)	Maximum permissible error in excess or in deficiency			
		Class 'A'		Class 'B'	
		as percentage of declared quantity	g or cm ³ (ml)	as percentage of declared quantity	g or cm ³ (ml)
i) Not more than 25 ...	9	—	—	—	—
ii) more than 25 but not more than 50	9	—	—	4.5	—
iii) more than 50 but not more than 100	—	4.5	—	—	2.5
iv) more than 100 but not more than 200	4.5	—	—	2.25	—
v) more than 200 but not more than 300	—	9	—	—	4.5
vi) more than 300 but not more than 500	3	—	—	1.5	—
vii) more than 500 but not more than 1000	—	15	—	—	7.5
viii) more than 1000	1.5	—	—	0.75	—

(2) The maximum permissible error specified as percentage shall be rounded off to the nearest one-tenth of a gram or cubic centimetre (millilitre).

Maximum permissible errors on net quantity declared by length, area or number. — (1) The maximum permissible error, in excess or in deficiency, in the net quantity declared in terms of length, area and number shall be as specified in Table II.

TABLE II

Maximum permissible errors on net quantities declared by length, area or number

Sr. No.	Quantity declared	Maximum permissible error in excess or in deficiency
i)	in units of length	2 per cent of declared quantity upto 10 metres and thereafter 1 percent of declared quantity.
ii)	in units of area	4 percent of declared quantity upto 10 sq. metres and thereafter 1 percent of declared quantity.
iii)	by number	2 percent of declared quantity.

[F. No. WM—15 (9)/75]

Sd/-

A. F. COUTO

Joint Secretary to the Government of India

ANNEXURE I

Illustration of items which are not sold in pre-packed condition under the existing trade practices

1. electric appliances like geysers, heaters, hot plates, ovens, iron, toasters, kettles, mixers.
2. electric fans—ceiling, table, pedestal, exhaust.
3. transistors, t.v. and radio sets, tape-recorders, record-players, stereos, projectors and their components.
4. air conditioners, room coolers, refrigerators, water coolers, and their components.
5. electric bulbs and fluorescent tubes and accessories.
6. crockery items glass, enamelled percelain or plastic including tea sets.
7. sanitary ware including glazed tiles.
8. hosiery goods.
9. knitting wool.
10. textile items, which can be opened and inspected like dhoties, sarees, bedsheet sets.
11. ready made garments including ties.
12. small sector soaps and detergents sold loose.
13. kitchen ware, including stoves, utensils, pressure cookers, buckets, trays, aluminium boxes, vacuum flask, mugs.
14. rubber and plastic moulded goods sold loose like combs, soap, cases, hot water bottles, plastic or rubber sheeting, rubber toy balloons.
15. shoes and other footwear.
16. locks and keys.
17. toys and sports goods.
18. watches, time pieces, clocks and their components, including watch straps and cases for the clocks and time pieces.
19. pens, pencils and nib, including fountain pen, ball point or fancy pencils.
20. art and drawing material.
21. pumping sets, lawn mowers, water hosepipes.
22. paper plates, cups and napkin.
23. wedding and greeting cards, envelopes.
24. cushions, pillows, mattresses—cotton filled or rubber foam.
25. miscellaneous items like cigarette and gas lighter, cigarette cases, leather or plastic wallets/belts, cufflinks, key-chains, tiepins, buttons, bangles, dhoopstand.
26. gota and zary goods.
27. hurricanes and gas lanterns and lamps, gas mantle, L. P. G. burners and other components.
28. cereals, foodgrains, pulses, sugar gur/jaggery if weighed in the presence of customer and the price is charged on the basis of weight so determined.
29. yarn reels, dry cells.

ANNEXURE II

Illustration of items required either as Industrial Raw Material or for the purpose of servicing an industry

1. electromedical equipment including X-Ray films.
2. medical anaesthetic and gaseous apparatus acetylene.
3. scientific and surgical equipments.
4. oxygen therapy apparatus.
5. electronic computers, calculators, data processing machines, their cards, ribbons and components.
6. switch gear, control gear, transformer—voltage stabilizer, electric starters, switches, conductor, capacitors, portable electrical tools.
7. industrial cables, steel or wire ropes, wire mesh.
8. photographic papers, chemicals and other accessories.
9. glass sheets, plates and mirrors used in studios and laboratories.
10. laminated/toughened safety glass, welding glasses.
11. jute bags and cloth jute, carpet backing, Hessian sacking excluding all other jute products including twine, yarn and ropes.
12. agricultural tractors and implements and their components.
13. auto-mobile/cycle spare parts and accessories, excluding spark plugs.
14. handtools, such as plier, spanners, wrenches, files, saws, screw drivers, industrial blades and knives.
15. nails, screws, nuts and bolts, cast iron steel valves and cocks, rivets, chains.
16. ball and roller bearings.
17. typewriters, duplicators and their components.
18. electric, water and other meters.
19. chemicals, such as soda ash, muriate of ammonia, ammonium chloride, anhydrous ammonia, sodium sulphate, graphite chemical, dyes and allied products, paraffin wax-match wax.
20. graphic paper and chemicals used in printing industry.
21. bitumen/asphalt.
22. synthetic fibre like viscose filament yarn and waste; viscose staple fibre; rayon tyre yarn acetate filament yarn and fibre and nylon filament yarn.
23. asbestos textiles.
24. rayon grade wood pulp.
25. cellulose film.
26. industrial glue, gas and batteries.
27. welding electrodes, welding gases and welding transformers.
28. roll linings; non-automation friction material; C.A.F. joinings; limpet sheets, mill boards; ferrosbestos.
29. titanium products—industrial raw material.
30. insulating varnishes.
31. insulating varnishes.
32. soap stone.
33. abrasive products.
34. sulfonates.
35. yeast.
36. bottle corks.
37. skim milk powder butter oil } used in dairy industry
white butter malted milk food } without being sold in retail trade.
38. watch components like main springs, plastic watch glasses.
39. hand/power loom products.
40. Forged stainless steel C.T.Cs segments.
41. hosiery machines needle, buttons, hooks and eyes, buckles.
42. transformer oil; petroleum jellies.

ANNEXURE III

MINISTRY OF INDUSTRY AND CIVIL SUPPLIES

(Department of Civil Supplies and Co-operation)

*New Delhi, the 4th September, 1975***ORDER**

S. O. 462(E) — In pursuance of the provisions of paragraph 8 of the packaged Commodities (Regulation) Order, 1975, the Central Government hereby authorises every officer, of and above the rank of an Assistant Controller of Weights and Measures in a State, for the purpose of carrying out the provisions of the said paragraph.

(No. WM-15(9)/75)

A. F. COUTO

Jt. Secy.

ANNEXURE IV

GOVERNMENT OF INDIA

MINISTRY OF INDUSTRY AND CIVIL SUPPLIES

(Department of Civil Supplies and Co-operation)

*New Delhi, the 29th September, 1975***ORDER**

S. O. 555(E). — In pursuance of sub-paragraph (3) of paragraph 8 of the Packaged Commodities (Regulation) Order, 1975, the Central Government hereby specifies the Director (Weights and Measures) in the Ministry of Industry and Civil Supplies (Department of Civil Supplies and Cooperation) as the authority to whom the report referred to therein shall be forwarded.

Sd/-

A. F. COUTO

Joint Secretary to the Government of India.

[F. No. WM-15(9)/75]

Corrigendum

The name of the Department under which the Public Gambling Act 1976 has been published at page 201, Series I No. 20 dated 12-8-1976 should be read as "Law and Judiciary Department" and not "Legislature Department".